REMARKS

Original claims 1-5 have been cancelled and new claims 6-10 have been added to more clearly define the present invention. Original claims 1-5 were rejected by the Examiner under 35 USC 102(a) as being anticipated by U.S. 6,686,193 to Maher, et al.

Original claims 1-5 define a method for identifying Aa^+ channel blockers whereas new claims 6-10 define a method for identifying compounds that preferentially block persistent but not transient Na^+ channels.

The Maher, et al. reference teaches methods and systems of compound screening wherein the method comprises expressing the target ion channel in a population of host cells and placing a plurality of the host cells into each of a plurality of sample wells.

A candidate drug compound is added to at least one of the plurality of sample wells and the transmembrane potential of the cells is modulated with a repetitive application of electric fields so as to set the transmembrane potential to a level corresponding to a pre-selected voltage dependent state of the target ion channel.

Accordingly, the Maher, et al. patent discloses methods of screening for blockers of voltage dependent Na^+ channels.

There is no teaching whatsoever in the Maher, et al. reference for differentiation between persistent and transient Na^+ channels.

The Applicants submit that anticipation is established only when a single prior art reference discloses, expressly or under principles of inherency, each and every element of the claimed invention. RCA Corp. v. Applied Digital Data Systems, Inc., 221 USPQ 385 (Fed. Cir. 1984); In re Sun, 31 USPQ 2d 1451 (CAFC 1993); Advanced Display Systems, Inc. v. Kent State University, 540 USPQ 2d 1673 (CAFC 2000).

Further, the Examiner must identify where each and every facet of the claimed invention is disclosed in the applied reference. Ex Parte Levy, 17 USPQ 2d 1461 (USPTO Board of Patent Appeals and Interferences 1990).

In addition, the Applicants submit that anticipation must meet strict standards, and unless all of the same elements are found in exactly the same situation and united in the same way to form identical function in a prior art reference, there is no anticipation. Tights, Inc. v. Acme-McCary Corporation, et al., 191 USPQ 305 (CAFC 1976).

In view of the fact that Maher, et al. doesn't even mention the word persistent, there is no anticipation of the method defining claims 6-10.

Further, Maher, et al. provides no reference to the use of ouabain is the cell in order to block the Na^+ pump leading to a small depolarization and a large secondary depolarization, as it is presently claimed. Nor does the

Maher, et al. reference provide any reference to transient Na^+ channels and accordingly provides no suggestion of a method for identifying compounds that preferentially block persistent but not transient Na^+ channels. Accordingly, a rejection of the newly submitted claims 6-10 under 35 USC 102 on the basis of the Maher, et al. reference is untenable.

Accordingly, in view of the amendment and arguments hereinabove set forth, it is submitted that each of the claims now in the application define patentable subject matter not anticipated by the art of record and not obvious to one skilled in this field who is aware of the references of record. Reconsideration and allowance are respectively requested.

Respectfully submitted,

Walter A. Hackler, Reg. No. 27,792
Attorney of Record
2372 S.E. Bristol, Suite B
Newport Beach, California 92660
Tel: (949) 851-5010
Fax: (949) 752-1925

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING DEPOSITED WITH THE U.S. POSTAL SERVICE AS FIRST CLASS MAIL IN AN ENVELOPE ADDRESSED TO: COMMISSIONER OF PATENTS, PO BOX 1450 ALEXANDRIA, VIRGINIA 22313-1450, ON

Dec. 17, 2004

12/17/04
(DATE SIGNED)

WALTER A. HACKLER
REG. NO. 27,792